



United States Department of the Interior

NATIONAL PARK SERVICE

National Capital Parks East
1900 Anacostia, Drive S.E.
Washington, D.C. 20020



June 22, 2011

Record of Determination for a Partial and Temporary Closure of Certain Federal Parkland and Restricted Access for the Fort Dupont Summer Theater Concert Series.

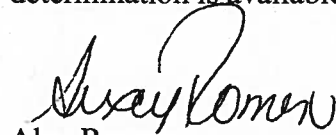
Pursuant to 36 C.F.R. §1.5, the National Park Service is closing certain parkland in National Capital Parks-East. Specifically, the park areas associated with the operations of the Fort Dupont Summer Theater, to include the grass areas bounded by: Fort Dupont creek to the north; Minnesota Ave to the west, Fort Dupont Activity Center Parking Lot to the south; and the wood line of the grass viewing areas to the east. These areas will be closed from 3:00 p.m. to 10:00 p.m. on the following Saturday evenings from July 9 to August 13 to allow for a United States Park Police security sweep. After the security sweep, access into these fenced areas will be restricted and allowed only through the designated security access points. All of these closed areas and security access points will be more particularly identified by fencing and signage.

The partial and temporary park closures and security access points come at the request of the United States Park Police, to allow for their security sweep of the area and for a crowd management plan to be implemented for visitor safety for the Fort Dupont Summer Theater Concerts. They are part of the park's enhanced security efforts for the Summer Concert Series. These enhanced security efforts will include security access points into the fenced areas to help ensure the safety and enjoyment of the thousands of persons expected to attend the concerts in Fort Dupont. Lesser protective measures will not suffice because of the need to ensure an effective security sweep as part of a public safety area. Alcohol, glass containers, open fires, barbeque grills, and fireworks are already generally prohibited under National Park Service regulations or the Park's Compendium.

This temporary and partial closure is not of a nature, magnitude and duration that will result in a "significant alteration in the public use pattern." The security sweep, and security access points has become common at other significant large-scale events throughout the country. Further, other nearby park areas will remain open to the public. The closure will not adversely affect the park's natural, aesthetic or cultural values; nor require significant modification to the resource management objectives; nor is it of a highly controversial nature. Accordingly, the National Park Service determines publication as rulemaking in the Federal Register is unwarranted under 36 C.F.R. §1.5(c).

The partial and temporary park closure is consistent with hundreds of other temporary park closures, the legal opinion of the Office of the Solicitor, and judicial adjudications. ANSWER Coalition v. Norton, No. 05-0071, (D. D.C. January 18, 2005), Mahoney v. Norton, No. 02-1715 (D.D.C. August 22, 2002), plaintiffs' emergency motion for appeal for injunction pending appealed denied Mahoney v. Norton, No. 02-5275 (D.C. Cir. September 9, 2002) (per curiam); Picciotto v. United States, No. 99-2113 (D. D.C. August 6, 1999); Picciotto v. Lujan, No. 90-1261 (D. D.C. May 30, 1990) Picciotto v. Hodel, No. 87-3290 (D. D.C. December 7, 1987); Spiegel v. Babbitt, 855 F. Supp. 402 (D. D.C. 1994), affd in parr w/o op. 56 F. 3d 1531 (D.C. Cir. 1995), reported in full, 1995 US App. Lexis 15200 (D.C. Cir. May 31, 1995).

Pursuant to 36 C.F.R. §1.7, notice of this temporary and partial closure and public use limitation will be made through media advisories, the National Park Service website, maps and posting at conspicuous locations in the affected park areas. Finally, pursuant to 36 C.F.R. §1.5(c), this determination is available to the public upon request.



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National Capital Parks-East